



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUG 27 2007

Marc E. Elias, Esq.
Perkins Coie LLP
607 14th Street, NW
Washington, DC 20005

RE: MUR 5785
James E. Pederson

Dear Mr. Elias:

Based on a complaint filed with the Federal Election Commission (the "Commission") on August 2, 2006 and information supplied by your client, James E. Pederson, the Commission, on March 6, 2007, found that there was reason to believe that Mr. Pederson violated 2 U.S.C. §§ 434(a)(6)(B)(iii) and (iv).

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that violations of 2 U.S.C. §§ 434(a)(6)(B)(iii) and (iv) have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible. The General Counsel's brief and any brief that you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

You may also request an oral hearing before the Commission. See Commission's "Policy Statement Establishing a Pilot Program for Probable Cause Hearings," 72 Fed. Reg. 7551 (Feb. 16, 2007). Hearings are voluntary and no adverse inference will be drawn by the Commission based on a respondent's request or waiver of such a hearing. Any request for a hearing must be submitted along with your reply brief and must state with specificity why the hearing is being

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requested and what issues the respondent expects to address. The Commission will notify you within 30 days of your request for a hearing as to whether or not the request has been granted.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Ruth Heilizer, the attorney assigned to this matter, at (202) 694-1598.

Sincerely,



Thomasenia P. Duncan
General Counsel

Enclosure
Brief

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1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)

4)
5 James E. Pederson)

MUR 5785

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8 **GENERAL COUNSEL'S BRIEF**

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10 **I. INTRODUCTION**

11 On March 6, 2007, the Federal Election Commission ("Commission") found reason to
12 believe that James E. Pederson violated 2 U.S.C. § 434(a)(6)(B)(iii) by failing to timely file an
13 initial notification of personal expenditures of \$2,000,000 to his campaign that exceeded the
14 threshold reporting requirement, and 2 U.S.C. § 434(a)(6)(B)(iv) by failing to timely file a
15 notification of additional personal expenditures to his campaign.¹ Based on the following factual
16 and legal analysis, this Office is prepared to recommend that the Commission find probable
17 cause to believe that James E. Pederson violated 2 U.S.C. §§ 434(a)(6)(B)(iii) and (iv).

18 **II. FACTUAL AND LEGAL ANALYSIS**

19 On March 31, 2006, Pederson made a \$2,000,000 contribution to his principal campaign
20 committee, Pederson 2006 (the "Committee"), triggering and exceeding the reporting threshold
21 of \$648,720, which required the filing of a 24 Hour Notice of Expenditure from Candidate's
22 Personal Funds ("FEC Form 10"). On June 30, 2006, Pederson made another contribution to the
23 Committee in the amount of \$275,000. Neither Pederson nor the Committee timely filed an
24 initial or additional FEC Form 10 disclosing these expenditures from personal funds.

25 A Senate candidate or his or her principal campaign committee must notify the Secretary
26 of the Senate, the Commission, and each opposing candidate when the candidate makes an

¹ On March 6, 2007, the Commission dismissed allegations concerning late filings with the Secretary of the Senate for Mr. Pederson's campaign expenditures made on May 8, 2006, June 14, 2006, and July 20, 2006.

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1 expenditure from personal funds exceeding two times the threshold amount.² 2 U.S.C.
2 § 434(a)(6)(B)(iii); 11 C.F.R. § 400.21(a). This notification must be received within 24 hours of
3 the time such expenditure is made. *Id.* For additional expenditures aggregating more than
4 \$10,000, the candidate is required to notify the Secretary of the Senate, the Commission and each
5 opposing candidate in an FEC Form 10 filing within 24 hours of the time such expenditures are
6 made. 2 U.S.C. § 434(a)(6)(B)(iv) and 11 C.F.R. § 400.22(a). The candidate is responsible for
7 ensuring that the FEC Form 10 is filed in a timely manner. 11 C.F.R. § 400.25. *See, e.g.,* MUR
8 5648 (Broyhill); (Commission found probable cause to believe that candidate violated personal
9 funds notification requirement); MUR 5607 (Socas) and MUR 5730 (Charles Taylor for
10 Congress) (Commission found reason to believe that candidate violated personal funds
11 notification requirement).

12 Pederson's \$2,000,000 contribution on March 31, 2006 caused his personal expenditures
13 for the primary election to exceed \$648,720. By exceeding this amount, the Committee and
14 Pederson were required to file an FEC Form 10 with the Commission within 24 hours of making
15 the contribution, or by April 1, 2006. The Committee did not file the initial FEC Form 10 until
16 April 7, 2006, or six days late. The Committee and Pederson also failed to file an additional
17 FEC Form 10 regarding Pederson's contribution of \$275,000 on June 30, 2006. The Committee
18 filed the Form 10 for that contribution on July 4, 2006, three days late.³ Therefore, this Office is
19 prepared to recommend that the Commission find probable cause to believe that James E.
20 Pederson violated 2 U.S.C. §§ 434(a)(6)(B)(iii) and (iv).

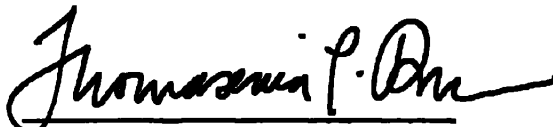
² The threshold amount for United States Senate candidates is the sum of \$150,000 plus an amount equal to the voting age population ("VAP") of the state multiplied by 4 cents. *See* 11 C.F.R. § 400.9. In the case of Arizona in 2006, the threshold amount was \$324,360 (\$150,000 + (4,359,000 VAP x .04, or \$174,360). Thus, an amount that is two times the threshold amount is \$648,720 (\$324,360 x 2).

³ Because the late Form 10s pertained to the primary election, in which Mr. Pederson was unopposed, notification of opposing candidates is not an issue in this matter.


III. GENERAL COUNSEL'S RECOMMENDATION

- I. Find probable cause to believe that James E. Pederson violated 2 U.S.C.
§§ 434(a)(6)(B)(iii) and (iv).

8/24/07
Date


Thomasenia P. Duncan
General Counsel


Ann Marie Terzaken
Acting Associate General Counsel
for Enforcement


Susan L. Lebeaux
Assistant General Counsel


Ruth I. Heilizer
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